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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

ENRIQUE GARCIA LOPEZ,

Defendant and Appellant.

E039251

(Super.Ct.No. FSB051759)

OPINION

APPEAL from the Superior Court of San Bernardino County. Michael M. Dest,
Judge. Affirmed.

Beatrice C. Tillman, under appointment by the Court of Appeal, and David K.
Rankin for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney
General, Gary W. Schons, Senior Assistant Attorney General, and Scott C. Taylor,
Supervising Deputy Attorney General, for Plaintiff and Respondent.

Enrique Garcia Lopez pleaded guilty to unlawful driving or taking of a vehicle (Veh. Code, § 10851, subd. (a)) and was placed on three years supervision on various terms and conditions. One condition required Lopez to inform the probation officer if he owned any pets. Lopez objected to that requirement, arguing that condition was vague and overbroad. Relying upon *People v. Lent* (1975) 15 Cal.3d 481, 486, a majority of this court concluded that the requirement was vague and overbroad because the condition (1) had no relationship to the crime of which defendant was convicted, (2) related to conduct which is not itself criminal, and (3) required conduct not reasonably related to future criminality.

Upon appeal from a similar issue from this court the California Supreme Court in *People v. Olguin* (2008) 45 Cal.4th 375 rejected our analysis on this issue and affirmed the opinion in *People v. Olguin*, concluding that “advance knowledge of the presence of pets at a probationer’s place of residence is a reasonable means of facilitating unannounced searches of the probationer’s residence during these compliance visits.” (*Id.* at p. 382.)

The court further concluded that since probation “is a privilege and not a right” the probationer “may consent to limitations upon their constitutional rights” in preference to incarceration, (*People v. Olguin, supra*, 45 Cal.4th at p. 384) and that the defendant has not been prohibited from owning any pet but must merely notify the probation officer of the pet. (*Id.* at p. 385.) The court concluded that requiring the probationer to notify the probation officer of existence of pets in his household is not an abuse of discretion. (*Id.* at p. 386.)

We find that the issues in *People v. Olguin* are identical to the issues in this case and that the conclusion in that case apply to the findings of this court.

Disposition

Based upon the findings of the Supreme Court on this issue, we affirm the obligation of the probationer to notify the probation officer of the presence of any pets at his residence during the three years of his supervised probation.

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s/Gaut
J.

We concur:

s/Richli
Acting P. J.

s/Miller
J.